

**TO: City Council Members, City of Sunnyvale, CA and
Staff of the Department of Community Department, City of
Sunnyvale, CA**

FROM: America Chinese Evangelical Seminary (ACES)

DATE: February 22, 2006

**As ACES is scheduled to meet with the Council on March 7, 2006 for
its appeal to issue a use permit, the following documents are enclosed
for your review before the meeting:**

- **An Appeal Document**
- **Attachment A: Letter from property owner**
- **Attachment B: List and Survey of Educational and Other Uses
within 1/2 mile of the Neighborhood**

**Appeal to Issue a Use Permit
Case Number 2005-1174**

TO: City Council Members, City of Sunnyvale, CA
C/o Department of Community Department, City of Sunnyvale, CA

FROM: America Chinese Evangelical Seminary (ACES), the Applicant

RE: Appeal to Issue a Use Permit for ACES, located at 850 Stewart Drive, Sunnyvale

DATE: February 22, 2006

I. Background

At the public hearing of the Sunnyvale Planning Commission (hereinafter, the "Commission") held on January 23, 2006, the Commission denied ACES's application to issue a Use Permit ("Permit") to operate as a seminary at 850 Stewart Drive, Sunnyvale.

According to the minutes of the Planning Commission, the decision for the denial was based on the following:

- "the project is not compatible with the neighborhood and the adjacent land use"¹
- "parking issue will become a stronger issue if the seminary were to grow;"²
- "concerns about the proposed use"³ and that "it gives the impression that the intended use would fall under the present moratorium."⁴

II. Reasons for Appeal

We request that our application for a use permit be reconsidered because of the following reasons:

- An exemption from the moratorium was already granted by the City Council for seminaries at the public hearing of the City Council Meeting on October 25, 2005;
- We would like to clarify the nature of ACES and the use of its facilities;

¹ Quoted from the Planning Commission Minutes of January 23, 2006.

² Quoted from the Planning Commission Minutes of January 23, 2006.

³ Quoted from the Planning Commission Minutes of January 23, 2006.

⁴ Quoted from the Planning Commission Minutes of January 23, 2006.

- The Sunnyvale City Planning Staff has already issued a report recommending how ACES's proposed use is "desirable," "not incompatible within the industrial neighborhood" and that "parking and traffic impacts to the site should be minimal"; and
- ACES will bring benefits to the residents and working professionals. It will integrate well with the neighborhood and enrich the community.

Each of these points is discussed in detail below. In addition, ACES would like to express and emphasize its willingness to work with the Sunnyvale City Council ("Council") and the Sunnyvale municipal staff ("Staff") towards a favorable decision of approval for the use permit.

III. Detailed Discussion

A. Exemption from Moratorium

At the public hearing of the City Council Meeting on October 25, 2005, an exemption from the Moratorium was granted to seminaries. As a result, Ordinance No.2795-05 specifically states that:

"This moratorium is not intended to apply to applications for seminaries in industrial and commercial districts. Applications for seminaries shall continue to be accepted and processed consistent with current regulations, which require the issuance of a use permit."

The exemption granted by the Council is a good decision because:

- ACES is not a Place of Assembly as defined in Title 19 of the Sunnyvale Municipal Code⁵.
- ACES does not meet as a congregation or a crowd.
- ACES is not a house of worship.
- ACES is not for amusement and recreation⁶.

⁵ Section 12.170(3) (b) of Title 19 of the Code defines "Places of assembly-community serving" to include "religious uses and facilities operated for worship; promotion of religious activities, including houses of worship and education and training...." However, Section 12.170(3) (b) also expressly states that "other establishments maintained by religious organizations, such as **full-time educational institutions**, hospitals and other related operations (such as recreational camps) are classified according to their respective activities." (emphasis added)

⁶ The City Planning Staff Report, dated January 23, 2006, reads, "The proposed use is not considered a 'Place of Assembly' or 'Recreational Use' as defined by the moratorium ordinance that is currently in place." (p. 5)

Above all, we would like to emphasize that ACES is a small-scale educational institution focused on continuing education for professionals.

B. Nature of ACES' Activities

We would like to clarify the activities and purposes of ACES so that the Council will have a fuller understanding of its proposed use.

1. ACES's Activities

ACES is a small-scale educational institution offering continuing education for professionals. There are no children in the make-up of students. ACES will offer graduate level study programs. Classes will be held mostly on weekday evenings and on weekends; and the facilities will be utilized as offices, classrooms and a small-scale library.

2. Number of Students

In our previous application for the Permit, we had requested for 50 students because our landlord had allocated 50 parking spaces to us. We did not realize that Ordinance No. 2795-05 had placed an upper limit of 40 students. Based on our understanding of the requirements of Ordinance No. 2795-05, we will honor the upper limit of 40 students.

In addition, we welcome any additional inquiries from the Council should it have further questions regarding ACES's operation as a seminary.

C. Compatibility of ACES with the Neighborhood and Environment.

The proposed use of ACES as an educational institution is compatible with the neighborhood and environment, as supported by the findings of the City Planning Staff and our analysis of the parking and traffic situation.

1. The Findings by the City Planning Staff

The City Planning Staff report ("Report") dated January 23, 2006 prepared for the Commission discussing the ACES application recommended that the Commission

“Approve with Conditions.” The main points are summarized, as quoted from the Report⁷ and from Attachment A of the Report⁸:

- The proposed use **attains the objectives and purposes** of the General Plan of the City of Sunnyvale.
- The proposed use is **desirable**, and will not be materially detrimental to the public welfare or injurious to the property.
- The seminary includes only **adult** students and employees. The seminary does not contain children.
- The project is **not incompatible** within the industrial neighborhood in terms of clientele and traffic impacts within the surrounding industrial neighborhood.
- The proposed use **should not negatively impact** the surrounding site or surrounding uses.
- The proposed use **does not increase peak hour traffic** to the site.
- Parking and traffic impacts to the site should be **minimal**.

In summary, ACES as a seminary is **very compatible** with the neighborhood and environment.

⁷ The Staff stated in the Report, under “Expected Impact on the Surroundings”:

“The Staff does **not** expect any significant impacts from the proposed seminary use. The seminary includes only adult students and employees and is **not** considered of any increased risk in terms of nearby hazardous materials or activities than a typical office use in this Zoning District. The proposed use does **not** increase peak hour traffic to the site. Parking and landscaping upgrades should benefit the site and neighboring properties.” (emphasis added, p. 7)

⁸ The Staff concluded in Attachment A of the Report:

“The proposed use **attains the objectives and purposes** of the General Plan of the City of Sunnyvale as the project is **not incompatible** within the industrial neighborhood in terms of clientele and traffic impacts within the surrounding industrial neighborhood....The seminary also does **not** contain children that could be affected by nearby hazardous materials or activities or could impact the operation of surrounding facilities.

The proposed use is **desirable**, and will **not** be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the proposed use, as conditioned, should **not negatively** impact the surrounding site or surrounding uses. Parking and traffic impacts to the site should be minimal. The proposed uses could be considered **less intensive** than other office and industrial uses that are allowed within the neighborhood by right. Conditions of Approval will require upgrades to the site which may **increase** the value of the property.” (emphasis added) (p.1)

2. Analysis of the Parking and Traffic Situation

On the matter of parking spaces, the property owner of the 2.6-acre site has already allocated 50 parking spaces for ACES (See Attachment A).

As the Staff Report states, the proposed use is less intensive than other uses that are allowed at the site by right. Classes will be generally held at **off-peak hours** on weekday evenings and weekends, thereby **complementing** (rather than adding to) the traffic and parking conditions in the area.

Therefore, ACES's proposed use will not cause any parking problem or traffic impact on the neighborhood and environment.

D. Other Non-industrial Institutions in the Neighborhood

Finally, we note that the area around ACES is one that is undergoing transformation. Within a half-mile radius of the seminary, there are already about nine non-industrial institutions operating, showing a variety of use such as child care center, schools and churches. (See Attachment B) They integrate well with the neighborhood. As an educational institution, ACES will also blend in well with the others in the neighborhood, enhancing and complementing the environment.

IV. Conclusion

Based upon the foregoing, ACES is a small-scale educational institution for continuing education for professionals. ACES's proposed use is complementary, desirable and beneficial to the neighborhood, and will not have an adverse impact on its environment, parking or traffic. This is supported by both the conclusions of the City Planning Staff and our survey of the neighborhood. As noted previously, ACES will honor the upper limit of 40 students for its facility. Finally, ACES will blend in well and contribute to the community in a beneficial way.

We therefore submit our appeal to the City Council of Sunnyvale and request that our application be approved and that ACES be issued a Use Permit to operate as a seminary at 850 Stewart Drive, Sunnyvale, CA 94085.

ATTACHMENT A

ATTACHMENT F

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Trans-Continental



965 E. Arques Ave. Ste. 100. Sunnyvale. CA 94085 // Tel. 408.730.0808 // Fax. 408.749.1765

To : City Council Members, City of Sunnyvale, CA

From: Jeff Kwok, owner of property at 850 Stewart Drive, Sunnyvale, CA

Re: Parking spaces for America Chinese Evangelical Seminary, (ACES)
Case Number 2005-1174

Date: February 20, 2006

As the property owner of the building situated on a 2.6 acre site, of which 850 Stewart Drive is a subdivision, I would like to confirm that up to 50 parking spaces will be allocated to ACES for its use during the period of its occupancy. This is in support of ACES's application for a use permit to operate as a seminary.

Your attention and assistance in this matter will be very much appreciated.

Yours faithfully,

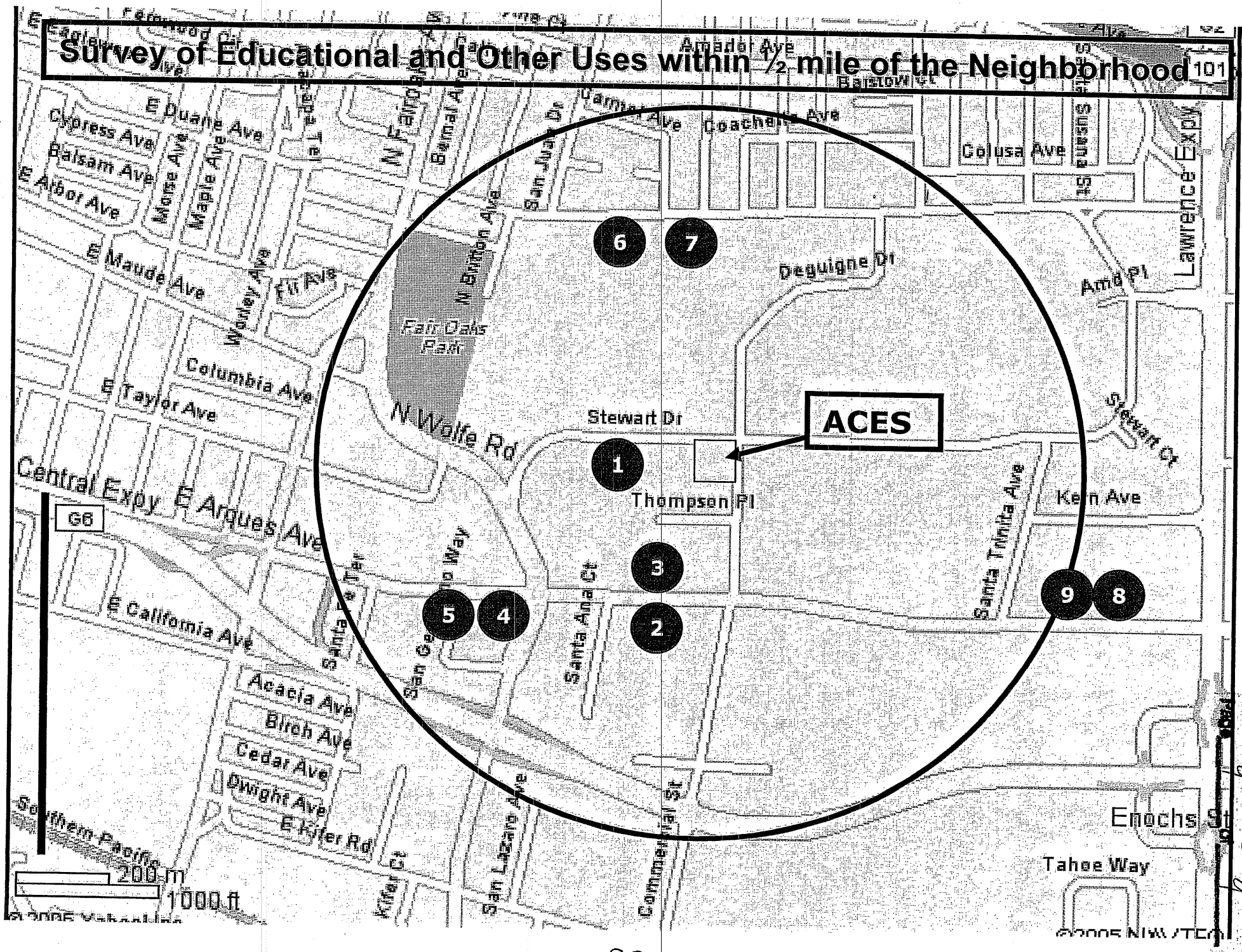
Jeff Kwok
Property Owner

Attachment B: List of Educational and Other Uses within ½ mile of the Neighborhood

- 1. Stepping Out Dancing
Studio
830 Stewart Dr.**
- 2. Guitar Musical School
906 E Arques Ave.**
- 3. Kit-Kat Night Club
907 E Arques Ave.**
- 4. Chung Tai Zen Center
750 E Arques Ave.**
- 5. Iranian Christian
Church
740 E Arques Ave.**

- 6. Rainbow Montessori
School
790 E. Duane Ave.**
- 7. Children Creative
Learning Center
794 E. Duane**
- 8. Prodigy Child
Development Center
1155 E. Arques**
- 9. Korean Christian
Church
1145 E. Arques**

Survey of Educational and Other Uses within 1/2 mile of the Neighborhood



ATTACHMENT 1